20.09.2024
Court No.13
Item No. 32
sp

FAT 168 of 2017
With
CAN 1 of 2017
Pushpa Saha
Vs.
Life Insurance Corporation of India & Ors.

Mr. Haradhan Mondal

..for the appellant

1. Despite notice, the respondents are not represented.

2. The appeal is directed against the judgment and order dated 5th December, 2016 passed by the learned Judge, XIth Bench of the City Civil Court at Calcutta in T.S. No. 688 of 2011.

3. By the impugned judgment, the suit, filed by the plaintiff, mother of the deceased, against the LIC and her daughter-in-law, was dismissed with costs.

4. The subject matter of the suit was an insurance policy being No. 577689321 dated 13th April, 2009 taken out by the appellant's son. The appellant's husband was the original nominee of the insurance policy. At the relevant point of time, the appellant's son was a bachelor.

5. The appellant's son got married in March, 2000. Since after marriage, he changed the nomination of the insurance policy in favour of his wife, Joyeeta Banerjee Saha. The son died within a period of six months after marriage under suspicious circumstances. There are criminal proceedings pending in that regard.

6. Prior thereto, the son had obtained another insurance policy for about Rs. 5 lakhs. Upon death of the son, the proceeds of the said policy was appropriated by the appellant and her husband.

7. The suit was contested by the LIC as well as the daughter-in-law. The Court below found that since the appellant appropriated the proceeds of the earlier insurance policy, she could not claim any amount in the subject insurance policy in the suit.

8. This Court is of the view that approach of the Court below is contrary to law. It is now well settled that a nominee of an insurance policy is a trustee. Such nominee is required to hold the proceeds of the policy in trust for all the legal heirs of the deceased. The payment by the LIC to the nominee daughter-in-law, cannot, however, be faulted.

9. In view of the above, this Court is of the view that the learned Trial Judge committed error in dismissing the suit on the ground that the appellant has received sums of money under another policy. The appellant and/or her husband who may have been nominee in the said other policy are equally required to hold the proceeds thereof and distribute the same to all legal heirs as per law. The same principle was required to be followed for the subject insurance policy.

10. In the above circumstances, the impugned judgment and order is set aside. The appellant shall be entitled to approach the Civil Court and obtain appropriate succession certificate of the estate and assets of her late son.

11. Based on the said certificate of a competent Court, the appellant could press for her share in the proceeds of the subject insurance policy. Likewise, she would also be required to remit the share of the

daughter-in-law, respondent no. 3, in any of the other insurance policy or assets of the deceased son.

12. The decree towards costs ordered by the Court below shall also stand set aside.

13. With the aforesaid observations, FAT 168 of 2017 shall stand disposed of.

14. In view of the above, CAN 1 of 2017 shall also stand disposed of.

15. There shall be no order as to costs.

16. Let the T.C.R. be returned, if any, to the Court below.

17. The registry shall communicate a copy of this order to the Court below.

18. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)